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Affidavit for Search Warrant

State of Texas
County of Taylor

I, Ernest Moscarelli, being a peace officer under the law of Texas and being duly sworn, on oath makes the following statements and accusations:

1. There is in Abilene, Taylor County, Texas, a suspected place described and located as follows: An office building located at 3610 Vine Street, Abilene, Taylor County, Texas, further described as a large two-story tan building on the west side of Vine Street. The building is rectangular, and the front entrance faces east. There is a canopy covering the front entrance, and the words "Texas Department of Family and Protective Services" are on the front of the canopy. The words are visible from the east parking lot and Vine Street.

 There is a vehicle located parked outside of 3610 Vine Street described as a 2004 Nissan Maxima identified by TX license plate CH5T270 and VIN# 1N4BA41EX4C874793. This vehicle is registered to Gretchen Denny.

2. Said suspected place is in the charge of and controlled by the following named Party: Texas Department of Family and Protective Services

3. There is a suspected place and premises the following items constituting evidence of a criminal offense or constituting evidence tending to show that a particular person committed a criminal offense: Any and all items related to the offenses of Tampering with Evidence including but not limited to: Electronic data stored on computers, CD's, DVD's, cellular telephones, servers, cameras, USB Flash Drives, external hard drives, and any other electronic data storage device, paper files, documents, notes, records, or other items used to record and store information.

4. It is the belief of your Affiant, and he hereby charges and accuses that: Bit Whitaker, a white female born on April 23, 1956; Gretchen Denny, a white female born on July 27, 1973; Barbara McDaniel, a white female born on January 31, 1968, committed the offense of PC 37.09 Tampering with Evidence 3rd Degree Felony.

5. Affiant has probable cause for said belief by reason of the following facts: On or about the 28th day of August, 2012, your affiant was sent to assist in an investigation of the death of a Tamryn Klapheke, a 22 month old child, at Dyess Air Force Base. During the investigation, your affiant and other detectives with the Abilene Police Department were in contact with investigators from the Texas Department of Family and Protective Services. During the initial part of the investigation, Detective Frank Shoemaker was at Hendrick Medical Center. He

and two CPS investigators, Rebecca Tapia and Marshall Davidson, assisted in the investigation by working with medical staff to treat the surviving siblings of the deceased child. While at the hospital, Detective Shoemaker was present when Rebecca Tapia was on the phone with Investigation Supervisor Barbara McDaniel. Detective Shoemaker requested that Barbara McDaniel send a photograph of the deceased child's injuries to Rebecca so that medical staff could compare the injuries with the surviving siblings' injuries. Rebecca advised Detective Shoemaker that she was ordered not to release any information or photographs to medical staff or law enforcement. She then advised Detective Shoemaker that CPS had just closed an investigation of child neglect just six days prior to the child's death. Detective Shoemaker informed Sgt. Beard of the CPS supervisor's order and lack of cooperation in this investigation.

On August 29, 2012 Sgt. Beard sent an e-mail to CPS Program Director Gretchen Denny requesting copies of the past CPS investigations involving the family of the Klapheke family. Ms. Denny responded that she would get back with Sgt. Beard. Sgt. Beard did not hear back from CPS, and on Friday August 31, 2012, he called Taylor County District Attorney "DA" James Eidson. Sgt. Beard advised DA Eidson that a request had been made two days prior, and that CPS was failing to provide the information, which has been an ongoing problem. Later that afternoon, Sgt. Beard received some of the information he requested. CPS provided a summative report of three investigations. However, CPS failed to provide medical records or other notated information for the first two cases that they did provide for the third case. Your affiant was assigned to begin an investigation because CPS failed to cooperate with this investigation. The previous CPS investigations were initiated in 2010 and 2011.

Over the following six weeks, your affiant and Detective Hill have interviewed twelve employees with CPS involving this case. Your affiant plans to interview more as the investigation continues. These interviews and subsequent affidavits have led your affiant to believe that several supervisors within the administration of the Texas Department of Family and Protective Services, Child Protective Services, Abilene Office have intentionally and knowingly concealed, altered, and/or destroyed records and other documentation material to this investigation because of the damaging nature of the documents. Your affiant has been informed by sworn affidavit that the Regional Director Bit Whitaker, Program Administrator Geneva Shroeder, Program Director Gretchen Denny, and Inv Supervisor Barbara McDaniel were involved in multiple conferences, meetings, and conversations regarding the withholding of information from law enforcement and the Taylor County District Attorney's Office during this investigation. RD Whitaker is the top administrator located in the Abilene Office for this region.

Your affiant interviewed two CPS employees that provided sworn affidavits. They were interviewed separately and on different days. One of the employees provided a sworn statement that she was ordered by Inv Supervisor Barbara

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McDaniel to withhold information from medical staff and law enforcement. This conversation took place while the employee was at the hospital with law enforcement and medical staff. The other employee was also at the hospital and witnessed the first employee's conversation and reaction to the verbal order given by Barbara McDaniel. One of the other Inv Supervisors later advised your affiant that Mrs. McDaniel's involvement in this situation was very unorthodox because she was not the direct supervisor for the employees that she ordered to withhold information. Your affiant later learned that Barbara McDaniel supervised at least one of the prior investigations of the deceased child and family.

On September 18, 2012 your affiant interviewed Barbara McDaniel in reference to this incident. This interview was recorded on an audio recorder. Barbara McDaniel lied to your affiant for several hours. Ultimately, Barbara McDaniel provided a sworn affidavit admitting to giving the order to the investigator not to share the photograph with medical staff or law enforcement. Barbara stated in her statement that she was told by her supervisor, Program Director Gretchen Denny, to give that order.

That same day, your affiant interviewed another Inv Supervisor from the CPS Abilene Office. This supervisor was interviewed because the CPS investigators who were supposed to be conducting a joint investigation were her subordinates. The supervisor told your affiant in a sworn affidavit that she was informed of the deceased child and the investigation the day that law enforcement responded to Dyess. The supervisor advised that PD Gretchen Denny advised her that CPS Investigator Claudia Gonzalez had closed a neglect case on the child six days prior to the child's death. Later, the supervisor spoke with Gretchen Denny in the parking lot of the Texas Dept. of Family and Protective Services, and Gretchen showed the investigator the printed copy of the prior investigations. The investigator stated in the affidavit that Gretchen Denny advised her she was going to take the reports home to review. The supervisor met with one of the investigators who was at the hospital during the initial investigation of the child's death. The investigator told her of the incident involving Inv Supervisor Barbara McDaniel, and that the other investigator was ordered not to provide any information to medical staff or law enforcement. The morning after the initial investigation, the supervisor walked into a staff meeting. PD Gretchen Denny and RD Bit Whitaker were in the meeting. PD Denny advised the supervisor that the case was going to be removed from her unit and transferred to Investigator Lonnie Malcomb out of the Breckenridge Office. The supervisor was concerned with this transfer because it was unusual. RD Bit Whitaker advised the supervisor that she made the decision and implied to the supervisor that it was not up for debate. That afternoon, the supervisor was told to bring the affidavit seeking removal of the surviving children to PD Gretchen Denny's office. When the supervisor returned with the affidavit, she walked into a conference meeting with RD Bit Whitaker, PD Gretchen Denny, Regional Attorney Dewey Britt, and media liason Marleigh Meisner. They all reviewed the affidavit that had been submitted to Assistant District Attorney Arimy Beasley for review. During the review in RD

Bit Whitaker's office, the supervisor was ordered to remove the CPS History information from the affidavit. The supervisor advised in her statement that this is not ordinary procedure. ADA Beasley also advised your affiant that the CPS History is always documented in an affidavit for removal. The supervisor advised in her affidavit that she later looked for some conference notes that she had on the meetings discussing this case. She stated that her notes were missing from her office. She requested a copy of her personnel file where copies of the notes were stored. Her personnel file was found to be missing as well. The supervisor went to PA Geneva Shroeder's office and asked her about the file. According to the supervisor, PA Shroeder called PD Gretchen Denny on a speaker phone, and the supervisor heard Gretchen Denny advised PA Shroeder that she had taken the file to her residence. The supervisor stated when the file was returned to her the following day, it was missing multiple documents including the notes regarding this investigation. The supervisor then recounted several other cases involving Callahan County Sheriff's Office and Tye Police Department where PD Gretchen Denny and Inv Supervisor Barbara McDaniel had ordered investigators not to share information with law enforcement.

On October 15, 2012 your affiant was advised by an investigative supervisor at the CPS Abilene Office that there are notes in the case files regarding orders given to withhold information from law enforcement regarding this investigation. Furthermore, there is a fourth investigation that was administratively closed that law enforcement and the Taylor County District Attorney's office was not given regarding investigations of the family of the deceased child.

Your affiant has interviewed several more employees of the Texas Dept. of Family and Protective Services Abilene Office. Your affiant believes there is sufficient probable cause in the affidavits provided and interviews of the suspected persons for a search warrant to locate the missing documents and any electronic data, written data, or other communications regarding this case that was not provided to the Abilene Police Department and/or the Taylor County District Attorney's Office.

Wherefore, your Affiant asks for issuance of a warrant that will authorize him to search said suspected place and premises for said personal property and seize the same.

Affiant

Subscribed and sworn before me by said Affiant on this the 15 day of October, 2012.

Magistrate